

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 11/26/2013	(3) CONTACT/PHONE Michael Conger, Planner / 805-781-5136	
(4) SUBJECT Introduction of an Ordinance Amending Title 19 (Building and Construction Ordinance) of the County Code to remove conflicting language and add a new Chapter 9 (Stormwater Management).			
(5) RECOMMENDED ACTION It is recommended that the Board introduce the attached ordinance and direct the Clerk to set a public hearing for action on this ordinance on December 3, 2013.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { X } Consent { } Presentation { } Hearing (Time Est. ____) { } Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances { X } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required { X } N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY { X } N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building /Michael Conger, Planner III

VIA: Kami Griffin, Acting Director

DATE: 11/26/2013

SUBJECT: Introduction of an Ordinance Amending Title 19 (Building and Construction Ordinance) of the County Code to remove conflicting language and add a new Chapter 9 (Stormwater Management).

RECOMMENDATION

It is recommended that the Board introduce the attached ordinance and direct the Clerk to set a public hearing for action on this ordinance on December 3, 2013.

DISCUSSION

As part of a recent mandate by the Central Coast Regional Water Quality Control Board (RWQCB), your Board will be considering adoption of stormwater management regulations. This has been agendized for December 3, 2013. Due to regulatory complexities, the stormwater management ordinance package includes amendments to multiple titles of the County Code:

Title 19 Building and Construction Ordinance

Title 22 Land Use Ordinance

Title 23 Coastal Zone Land Use Ordinance

Titles 22 and 23 are considered zoning ordinances. These ordinances may not be amended without proper notice and a public hearing. The public hearing to be held for Titles 22 and 23 is scheduled for December 3, 2013. Because of the public hearing requirements, Titles 22 and 23 do not require introduction (Government Code Section 25131).

Title 19 has no statutory public hearing requirement. As a result, the ordinance must be introduced at least five days prior to adoption. This ordinance is being introduced on your November 26, 2013 agenda in order to hold a public hearing and take action at your December 3, 2013 meeting. Discussion of the proposed changes can occur today; however, if **substantial changes** are made to the attached amendments today, the items will have to be re-introduced on December 3, 2013, to be adopted at a later date.

BACKGROUND

By order of the Central Coast RWQCB, municipalities in the Central Coast region are required to adopt an enforceable ordinance to regulate post-construction stormwater discharges from development projects in urbanized areas (often referred to as "MS4" areas). These ordinances must go into effect by March 6, 2014.

In June 2013, the Planning Commission reviewed the proposed ordinances, and recommended that your Board adopt the following:

1. Modifications to **Title 22, the Land Use Ordinance**. This would require that new development projects in the inland area be reviewed for compliance with the RWQCB's Post Construction Requirements.

Title 22 is a zoning ordinance, and a public hearing is required before any action is taken. The public hearing is scheduled for December 3, 2013. Ordinances affecting Title 22 will take effect 30 days after adoption.

2. Modifications to **Title 23, the Coastal Zone Land Use Ordinance (CZLUO)**. The CZLUO is a component of the County's Local Coastal Program (LCP).

Title 23 is a zoning ordinance, and a public hearing is required before any action is taken. The public hearing is scheduled for December 3, 2013. Ordinances affecting Title 23 will not take effect until the Coastal Commission has approved it and the Board of Supervisors has accepted all of the Coastal Commission's modifications. We anticipate a 1-2 year process to complete a Local Coastal Program Amendment. During that time, the ordinance, which affects only the Coastal Zone, would not be in effect.

3. Modifications to **Title 19, the Building and Construction Ordinance**.

Because Title 23 modifications are not anticipated to be in effect by March 6, 2014, it is necessary to duplicate the stormwater requirements in Title 19. Otherwise, the stormwater management requirements would not apply within the Coastal Zone. County Planning intends to return with an ordinance to remove this language from Title 19 once the amendment to Title 23 has taken effect. Government Code Section 25131 requires that ordinance amendments be introduced at least five days prior to action.

TECHNICAL SUMMARY

A new chapter would be added to Title 19 to deal with stormwater management. The following table summarizes the provisions:

Section Number	Function
19.09.010 – Purpose	Describes the purpose of the ordinance. The purpose is to reduce pollutant discharges.
19.09.020 – Definitions	Provides definitions of stormwater terminology.
19.09.030 – Applicability	Describes where the ordinance is applied. It is applied in all "MS4" areas, which include all URL areas, most VRL areas, and some rural areas. Maps are provided in the ordinance.
19.09.040 – Stormwater Control Plan Required.	Requires that projects submit a Stormwater Control Plan (SWCP). The SWCP will document how the project complies with the Post Construction Requirements
19.09.050 – Stormwater Quality Standards	Requires that projects comply with the Post Construction Requirements adopted by the RWQCB.
19.09.060 – Source Control Standards	Establishes requirements for controlling pollution sources for uses such as outdoor storage, fueling, and restaurants.
19.09.070 – Maintenance	Requires that a maintenance agreement be recorded to ensure long-term maintenance of structure stormwater measures.
19.09.080 – Alternative Compliance	Describes circumstances where alternative standards may be applied. This is the case for projects where the strict standard is technically infeasible, projects in an "Urban Sustainability Area" and projects subject to a watershed master plan.

OTHER AGENCY INVOLVEMENT/IMPACTS

The ordinance before your Board is the result of an action taken by the Central Coast RWQCB. This action mandates that all municipal dischargers in the Central Coast region adopt ordinances to govern post-construction discharges of private development projects.

The Departments of Public Works and General Services are responsible to ensure compliance with Post Construction Requirements for public projects in MS4 areas.

Amendments were referred to applicable agencies and Community Advisory Councils.

County Counsel has reviewed the proposed ordinance as to form and codification.

FINANCIAL CONSIDERATIONS

The stormwater management ordinance amendments are part of the 2013-2014 budget for the Department of Planning and Building.

BUSINESS IMPACT STATEMENT

Implementation of a stormwater management ordinance would have potential impacts on the "Building Design and Construction Cluster." Impacts could occur due to (a) an increased need for engineering services; (b) increased building costs associated with stormwater infrastructure requirements; (c) land costs, as stormwater devices could consume developable land; and (d) ongoing maintenance costs.

This ordinance is the result of an order issued by the Regional Water Quality Control Board. The Post Construction Requirements established in the order were developed over a multi-year collaborative process. Initial drafts of regulatory language were particularly restrictive. Between 2010 and 2013, RWQCB staff engaged municipalities and trade organizations in commenting on the draft PCRs. Over time, several revisions were made to respond to concerns about economic impacts. Most notably, there are now ways to achieve compliance where retention is otherwise infeasible. Additionally, there is an option for the County to develop a watershed management plan where offsite compliance is more desirable.

There are also potential economic benefits from changes in stormwater management practices. For example, by developing watershed management plans that allow developers to contribute an in-lieu fee, the County could use this as an opportunity to fund projects that help to restore the function of the watershed. In many cases, these watershed projects could also serve to mitigate other impacts. Restoring wetlands, for example, would also provide potential habitat value. Similarly, projects designed to infiltrate stormwater runoff also help to recharge groundwater basins.

RESULTS

Introduction of these amendments today will allow them to be heard on December 3, 2013. That hearing will occur alongside with the hearings for closely-related amendments to Titles 22 and 23. If your Board takes action on December 3, 2013, the ordinance would be and become effective January 2, 2014.

ATTACHMENTS

Attachment A: Ordinance Amending Title 19